

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL REVISION No. 463 of 2004

GOPAL RAM
V/S
JAHOR DIN

Mr. ANIL VYAS, for the appellant / petitioner

Date of Order : 12.4.2005

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the petitioner.

By the impugned order, the learned trial Court has dismissed the petitioner's application filed under Order 7 Rule 11. The objection raised was on three aspects. The first being that the suit is barred by time, other being that the document on the basis of which the suit has been filed is unregistered, and therefore, is not admissible in evidence, and the third being that the transaction was violative of Section 13 of the Colonisation Act.

Perusal of the impugned order shows that the point of limitation was not pressed, and regarding inadmissibility of the document, the learned trial Court has found that the suit is for specific performance of the contract, and according to the Proviso to Section 49 of the Registration Act, in such suit, unregistered agreement to sell can be read in evidence. Regarding violation of Section 13, it has been found that there is a stipulation in the agreement that the sale deed would be executed after obtaining requisite permission under Section 13, therefore, there is no violation of Section 13. Thus, I do not find any jurisdictional error in the findings recorded in the impugned order, requiring interference in revisional jurisdiction.

It is informed by the learned counsel for the petitioner that

written-statement has already been filed. In that view of the matter, it will be open to the learned trial Court to go into the questions on merits during trial if the objections are raised in the written-statement. However, the revision petition is dismissed summarily. The trial Court is directed to expeditiously decide the main suit itself.

(N P GUPTA),J.

/tarun/